

### **REMARKS**

Favorable reconsideration, reexamination, and allowance of the present patent application are respectfully requested in view of the foregoing amendments and the following remarks. The foregoing amendments are fully supported by the specification and original claims, and at least on page 8, last paragraph, and page 9, line 20 – page 10, line 5, and page 14, lines 14-20, and in the working Examples. No new matter is added.

#### ***Withdrawal of Claims***

Applicants acknowledge the withdrawal of Claims 8-11 from consideration at this time, pursuant to the Restriction / Election requirement in the Office Action dated June 6, 2006.

#### ***Objection to the Claims***

At page 3 of the Office Action, Claim 2 was objected to because it allegedly contained informalities. Applicants respectfully request reconsideration of this objection.

Claim 1 has been amended as suggested by the Examiner to overcome this objection. For at least the foregoing reasons, Applicants respectfully submit that Claim 1 is not objectionable, and therefore respectfully requests withdrawal of the objection thereto.

#### ***Rejection under 35 U.S.C. § 101***

In the Office Action, beginning at page 3, Claims 1-7 were rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. Applicant respectfully requests reconsideration of this rejection.

Claim 1 has been amended as suggested by the Examiner to overcome this rejection. For at least the foregoing reasons, Applicants respectfully submit that Claims 1, 4-5, and 7 are directed to statutory subject matter, and therefore respectfully requests withdrawal of the rejection thereof under 35 U.S.C. § 101.

#### ***Rejection under 35 U.S.C. § 112, second paragraph***

In the Office Action, beginning at page 4, Claim 4 was rejected under 35 U.S.C. §

112, second paragraph, as reciting subject matters that allegedly are indefinite.

Applicants respectfully request reconsideration of this rejection.

Claim 4 has been amended to overcome this rejection. For at least the foregoing reasons, Applicants respectfully submit that Claim 4 fully complies with 35 U.S.C. § 112, second paragraph, and therefore respectfully requests withdrawal of the rejection thereof under 35 U.S.C. § 112.

***Rejection under 35 U.S.C. § 112, first paragraph***

In the Office Action, beginning at page 4, Claims 1-7 were rejected under 35 U.S.C. § 112, first paragraph, as reciting subject matters that allegedly fail to comply with the written description requirement. Applicants respectfully request reconsideration of this rejection.

Although Applicants do not necessarily agree with the bases for the rejection, Claim 1 has been amended to specifically recite the means for reducing glutaminase activity of the bacterium, and further provides an upper limit of activity. As disrupting and/or mutating a gene on a bacterial chromosome is a well-known technique for inactivating a gene, one of ordinary skill in the art would be able to obtain the claimed bacteria without further description of particular species of glutaminase genes within the claimed genus. This is supported even more by the knowledge in the art concerning the family of glutaminase genes and the encoded protein from various bacterial species (see page 9 of the specification).

Furthermore, claim 1 and claim 5 have been amended to recite the particular sequence of the DNA which is being disrupted and/or mutated (in claim 1), or enhanced (in claim 5) in the claimed coryneform bacteria. This sequence is also claimed with readily determined variants defined by particular stringent hybridization conditions. For these reasons, the invention is adequately described.

For at least the foregoing reasons, Applicants respectfully submit that Claims 1, 4-5, and 7 fully comply with 35 U.S.C. § 112, first paragraph, and therefore respectfully requests withdrawal of the rejection thereof under 35 U.S.C. § 112.

In the Office Action, beginning at page 7, Claims 1-7 were rejected under 35 U.S.C. § 112, first paragraph, because the specification allegedly does not reasonably provide enablement for the claimed invention. Applicants respectfully request reconsideration of this rejection.

Although Applicants do not necessarily agree with the bases for the rejection, Claim 1 has been amended to specifically recite the means for reducing glutaminase activity of the bacterium, and further provides an upper limit of activity. As disrupting and/or mutating a gene on a bacterial chromosome is a well-known technique for inactivating a gene, one of ordinary skill in the art would be able to obtain the claimed bacteria without undue experimentation. The breadth of the claims and the species which fall within this breadth could easily be obtained by the person of ordinary skill in the art, even though all species are not exemplified, since it requires no more than routine experimentation to inactivate a gene in a bacterial cell particularly when the sequence is specified. This is supported even more by the knowledge in the art concerning the family of glutaminase genes and the encoded protein from various bacterial species (see page 9 of the specification).

Furthermore, claim 1 and claim 5 have been amended to recite the particular sequence of the DNA which is being disrupted and/or mutated (in claim 1), or enhanced (in claim 5) in the claimed coryneform bacteria. This sequence is also claimed with readily determined variants defined by particular stringent hybridization conditions. Again, no more than routine experimentation would be required to determine species falling within the claimed genus due to the well-known techniques which are necessary for this determination. For these reasons, the invention is adequately enabled by the disclosure, particularly in light of the knowledge of various glutaminase genes, and the requisite high skill level in this art.

For at least the foregoing reasons, Applicants respectfully submit that Claims 1, 4-5, and 7 fully comply with 35 U.S.C. § 112, first paragraph, and therefore respectfully requests withdrawal of the rejection thereof under 35 U.S.C. § 112.

***Rejection under 35 U.S.C. § 103(a)***

In the Office Action, beginning at page 12, Claims 1-2 and 5-7 were rejected under 35 U.S.C. § 103(a), as reciting subject matters that allegedly are obvious, and therefore allegedly unpatentable, over the disclosure of Nakamura et al. in view of the disclosure of Pompejus et al. and further in view of Duran et al. Applicants respectfully request reconsideration of this rejection.

Claim 1 has been amended to incorporate therein the subject matter of claim 3, and since the subject matter of claim 3 was not included in this rejection, the claims are now allowable.

For at least the foregoing reasons, Applicants respectfully submit that the subject matters of Claims 1 and 5-7, each taken as a whole, would not have been obvious to one of ordinary skill in the art at the time of Applicant's invention, are therefore not unpatentable under 35 U.S.C. § 103(a), and therefore respectfully request withdrawal of the rejection thereof under 35 U.S.C. § 103(a).


***Conclusion***

For at least the foregoing reasons, Applicant respectfully submits that the present patent application is in condition for allowance. An early indication of the allowability of the present patent application is therefore respectfully solicited.

If Examiner Ramirez believes that a telephone conference with the undersigned would expedite passage of the present patent application to issue, she is invited to call on the number below.

It is not believed that extensions of time are required, beyond those that may otherwise be provided for in accompanying documents. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and the Commissioner is hereby authorized to charge fees necessitated by this paper, and to credit all refunds and overpayments, to our Deposit Account 50-2821.

Respectfully submitted,

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